

AMENDED IN ASSEMBLY JUNE 22, 2005

AMENDED IN SENATE MAY 3, 2005

AMENDED IN SENATE APRIL 25, 2005

SENATE BILL

No. 703

Introduced by Senator Machado

February 22, 2005

An act to add Section 2610.65 to the Revenue and Taxation Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

SB 703, as amended, Machado. Tax liens.

Existing law specifies that every tax on real property is a lien against the property assessed. Existing law authorizes a person to pay the property taxes of another person pursuant to a written or oral authorization. Existing law provides that a tax lien has priority over all other liens on the property, regardless of when the other liens were created.

This bill would instead require a person, whom this bill would classify as an assessee, that seeks to authorize another person, whom this bill would classify as a payor, to pay his or her real property taxes to file a document sworn under penalty of perjury with the tax collector containing the authorization, *a statement by the assessee acknowledging that the assessee chooses to borrow funds from the payor, as provided*, a description of the property on which the payor will pay the taxes, and the payor's name, as specified. This bill would also specify that these taxes are a lien in favor of the payor against the property of the assessee and that this lien has the same priority as the tax lien that was transferred to the payor. This bill would also require the tax collector to issue a receipt to the payor, to authorize a transfer

of the tax lien to the payor, and to certify that the payment has been made, as specified. This bill would also authorize the tax collector to charge a fee for the cost of implementing the lien transfers. *This bill would provide that these provisions would not apply until January 1, 2008, in certain counties if specified actions occur.*

By expanding the crime of perjury, this bill would create a state-mandated local program.

This bill would also create a state-mandated local program by requiring tax collectors to issue receipts and certifications to payors.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for specified reasons.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 2610.65 is added to the Revenue and
2 Taxation Code, to read:

3 2610.65. (a) If the payor of property taxes files a sworn
4 statement from an assessee authorizing the payor to pay the
5 property tax of the assessee, the tax collector shall transfer the
6 lien for property taxes, interest, and penalties to the payor. The
7 authorization statement shall be a document, sworn under penalty
8 of perjury, that contains all of the following:

9 ~~(1) A statement authorizing the payor to pay property taxes on~~
10 ~~the assessee's real property.~~

11 *(1) A statement by the assessee acknowledging that the*
12 *assessee chooses to do both of the following:*

13 *(A) Borrow funds from the payor necessary to pay the*
14 *property taxes owed.*

15 *(B) Follow the procedures set forth in this section to facilitate*
16 *that loan.*

17 (2) A description of the real property of the assessee, the taxes
18 upon which will be paid by the payor.

19 (3) The name of the payor.

(b) Notwithstanding any other provision of law, if a payor pays real property taxes, penalties, or interest of an assessee under this section, all of the following apply:

(1) The taxes on the real property of the assessee that will be paid by the payor are a lien against that property. This lien shall have the same priority as a tax lien described in Section 2192.1 and shall secure the payment of taxes, penalties, interest, court costs, recording fees, and the costs of collection incurred by the payor.

(2) The tax collector of the taxing jurisdiction, or his or her authorized representative, shall issue a tax lien transfer to the payor describing the payment and shall attach to that tax lien transfer document a receipt certifying, either by stamping the document with the tax collector's seal of office or by signing the document before a notary public, both of the following:

(A) That the payment so described has been made by the payor.

(B) That a lien exists against the real property of the assessee as a result of the payment and that the lien is being transferred to the payor.

(c) Within five working days of the payment of taxes, penalties, and interest the tax collector shall provide the payor with the tax lien transfer document and shall authorize the payor to record the tax lien transfer document against the real property of the assessee in the name of the payor in the deed records of each county in which the property encumbered by the lien is located. A lien required by this subdivision is not enforceable unless it is recorded as required by the preceding sentence.

(d) The tax collector may charge a reasonable fee for the cost of implementing this section, not to exceed ~~\$~~ *the actual cost of implementing this section or two hundred fifty dollars (\$250), whichever is less.*

(e) ~~The holder of the lien transferred pursuant to this section shall have the same right of sale as described in Section 3691 or foreclosure as described in Section 726 of the Code of Civil Procedure and shall provide notice of a sale or foreclosure to interested parties described in Section 4676 and to the assessee in the same manner as provided in Sections 3691.1 and 3691.2. shall have the same right of sale and shall be subject to the same notice of intended sale requirements as described in Section 3691~~

1 and may, upon the passing of the interval described in
2 subparagraph (A) of paragraph (1) of subdivision (a) of Section
3 3691, commence an action for foreclosure as described in
4 Section 726 of the Code of Civil Procedure, and shall provide
5 notice of a sale or foreclosure to all interested parties, including
6 those described in Section 4676, and to the assessee in the same
7 manner as provided in Sections 3691.1 and 3691.2.

8 (f) Nothing in this section shall limit the rights of any
9 lienholder to make advances for property taxes in accordance
10 with the lienholder's lien or security agreement, or to recover
11 advances made by the lienholder to pay property taxes or other
12 sums as may be undertaken in accordance with the lienholder's
13 lien or security agreement.

14 (g) Nothing in this section shall give any payor an exemption
15 from the usury and interest rate ceiling laws of this state. The
16 maximum interest rate shall not exceed 1.5 percent per month.

17 (h) Before accepting an application fee from the assessee, the
18 payor shall disclose in writing to the assessee both of the
19 following:

20 (1) Each type and amount of possible charges, fees, or costs
21 that may be incurred by the assessee in connection with the loan
22 or contract under this section, and other moneys that the payor
23 will charge the assessee to pay off the loan or to redeem the
24 property.

25 (2) The rate at which all sums specified in paragraph (1) shall
26 bear interest.

27 (i) Notwithstanding anything to the contrary in this section,
28 this section shall not apply or be effective until January 1, 2008,
29 in any county where one or more local agencies have, prior to
30 June 1, 2005, sold, assigned, pledged, or otherwise transferred
31 their right, title, or interest in, and to, the enforcement or
32 collection of delinquent or uncollected property taxes,
33 assessments, or other receivables, or any portion thereof, as
34 authorized in Section 6516.6 of the Government Code.

35 SEC. 2. The Legislature finds and declares that this act serves
36 a compelling state interest by accelerating the collection of
37 property tax revenues for local governments, reducing the cost of
38 collecting those tax revenues, and by providing property owners
39 with a lower cost option for paying delinquent property taxes to

1 avoid the substantial penalties that attach to property tax
2 delinquencies.

3 SEC. 3. No reimbursement is required by this act pursuant to
4 Section 6 of Article XIII B of the California Constitution because
5 the only costs that may be incurred by a local agency or school
6 district will be incurred because this act creates a new crime or
7 infraction, eliminates a crime or infraction, or changes the
8 penalty for a crime or infraction, within the meaning of Section
9 17556 of the Government Code, or changes the definition of a
10 crime within the meaning of Section 6 of Article XIII B of the
11 California Constitution.

12 SEC. 4. No reimbursement is required by this act pursuant to
13 Section 6 of Article XIII B of the California Constitution because
14 a local agency or school district has the authority to levy service
15 charges, fees, or assessments sufficient to pay for the program or
16 level of service mandated by this act, within the meaning of
17 Section 17556 of the Government Code.